THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

W.P.No.21010 of 1999
(per the Hon'ble Sri Justice T.Ch.Surya Rao)

Dated 06-11-2006

Between:

Col.N.Ranga Rao .. Petitioner

and

The Special Court (under the A.P.
Land Grabbing (Prohibition) Act),
rep. by its Registrar, B.R.K.R. Bhavan,
Tank Bund Road, Hyderabad and another ..
Respondents

and

W.P.No.11439 of 1999
(per the Hon'ble Sri Justice T.Ch.Surya Rao)

Dated 06-11-2006

Between:

Y.Prabhakar and another .. Petitioners

and

The Special Court (under the
A.P. Land Grabbing (Prohibition) Act),
rep. by its Registrar, B.R.K.R. Bhavan, Tank Bund,

Hyderabad, and others ..
Respondents

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THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

W.P.Nos. 21010 and 11439 of 1999

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COMMON ORDER: (per the Hon'ble Sri Justice T.Ch.Surya Rao)

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These two writ petitions can be disposed of together, since common questions of law and fact are involved and, as the parties are also the same.

The second respondent-State filed the L.G.O.P.No.399 of 1988 on the file of the Special Tribunal-cum-District Judge, Ranga Reddy District at Saroornagar against, one, Sri N.Ranga Rao, President of Gun Rock Enclave Co-operative Housing Society Limited for eviction on the premise that he was a grabber. That O.P. was enquired into and eventually at the culmination of the enquiry the learned Special Tribunal allowed the application by its order, dated 03-02-1997. Assailing the said judgment in L.G.O.P.No.399 of 1988, the respondent therein filed the appeal in L.G.A.No.11 of 1997 before the learned Special Court at Hyderabad. Under the impugned judgment dated 05-01-1999 in L.G.A.No.11 of 1997 the learned Special Court

dismissed the appeal while concurring with the findings given by the Special Tribunal. Assailing the said judgment of the Special Court, the sole respondent in the L.G.O.P. preferred the W.P.No.21090 of 1999. In the meanwhile, the petitioners in W.P.No.11439 of 1999, namely, Gun Rock Enclave Cooperative Housing Society Limited and another member of the said society preferred the said writ assailing the impugned judgment of the learned Special Court.

The facts lie in a narrow compass. The land in dispute is situate in Hasmathpet village, covered by Sy.No.1, admeasuring Acs.123.12 guntas. It stood classified as 'sarkari poramboke' and had been recorded as such in the revenue records. Out of the said extent, an area admeasuring Acs.17.00 was allegedly occupied by the petitioners without any entitlement and converted the same into various plots. As against this, the case of the writ petitioners seems to be that the land in question was an ex-jagir village, which belonged to paigah. The Tahsildar, Narsapur, assigned an area of Acs.17.00 in favour of one person from whom the Society purchased the said land. However, the assignment was not properly implemented in the revenue records and continued to be recorded as Government land only. The writ petitioner filed a suit as G.P.A. holder of the assignee, by name, Dhanalaxmi, W/o Edgani Agaji and a decree was passed against the State. The appeal preferred as against the judgment and decree in the said suit was pending adjudication. Having regard to the competing claims of the State as well as the writ petitioners and the evidence adduced in support of the respective claims, as aforesaid, the learned Special Tribunal was of the view that the State was the owner of the land and in consequence whereof, allowed the application filed by the State. The appeal too ended in dismissal, as aforesaid, after hearing.

Sri M.R.K.Choudary, learned senior counsel appearing for the writ petitioners, represents that the land situate in Hasmathpet village is the subject matter of the suit, C.S.No.14 of 1958, filed for partition and eventually was decreed by this Court exercising its original jurisdiction. The State was a party thereto and the judgment and decree passed in C.S.No.14 of 1958 became final, having regard to the proceedings initiated assailing the said judgment and decree in the hierarchy of Courts ended eventually in dismissal. It is the further contention of the learned senior counsel that in respect of the land situate in Hasmathpet village, which h is also subject matter of the suit, C.S.No.14 of 1958, after the culmination of the litigation at the Apex Court level and having regard to the subsequent directions given by this Court by a learned single Judge and confirmed by a division bench of this Court, the State ultimately agreed to withdraw its contest and to mutate the lands in favour of the pattedars by incorporating their names and therefore the land in dispute in the instant writ petitions also stand in the same footing and has been covered by the same proceedings and therefore virtually there is no contest for the State in these matters.

The learned senior counsel seeks to place reliance upon a judgment of this Court rendered by a bench in W.A.No.2222 of 2003, dated 11-03-2004, in between the *Government of A.P. v. Vilayat Jahan Dargahi Begum*.

A perusal of the said judgment shows that the direction given by a learned single Judge in W.P.No.10605 of 1997 was eventually affirmed by it. The subject matter of the said writ appeal was the land in an extent of Acs.13.16 guntas covered by Sy.No.1 and another bit measuring Acs.5.24 guntas covered by Sy.No.15 of Hasmathpet village. A perusal of the order shows that this Court directed the State

and the Regional Deputy Director, Survey and Land Records, Hyderabad, to identify and demarcate the patta lands of Hasmathpet village pursuant to an earlier direction given by this Court in W.P.No.17697 of 1989, dated 31-03-1995. Having regard to the fact that the subject matter of the dispute is squarely covered by the suit, C.S.No.14 of 1958, and this Court directed specifically to the Regional Deputy Director, Survey and Land Records, for demarcating the patta land covered by Sy.No.1 of Hasmathpet village, it is obvious that it cannot be legitimately contended by the State any more that the land situate in Hasmathpet village stood registered in the revenue records as Government poramboke. What is left open to the State seems to be to carryout the directions given by this Court for mutation.

However, unfortunately that has not been the plea taken by the writ petitioners in the L.G.O.P. or before the Special Court, in appeal. The plea taken, on the other hand, appears to be an altogether different one. Having regard to the stand taken by them, it appears that there is nothing to be decided in the instant writ petition, except confirming the judgment of the appellate Court, namely, the Special Court. At the same time, this Court cannot ignore the judgment passed by this Court in C.S.No.14 of 1958 and in W.A.No.2222 of 2003, which are obviously the records of the Court. Under these circumstances, it is expedient in the interest of justice to remit the matter to the Special Tribunal, so that the pleadings can be suitably amended and the matter can be effectively adjudicated by the Tribunal once for all, having regard to the correct state of affairs. We see no other go except to remit the matter to the Special Tribunal under the circumstances and in view of the contingency that has arisen, as discussed hereinabove. There has been no objection for the petitioners as well as the State for the said course to be followed by this Court. Having regard to the fact

that we have decided to remit the matter to the Special Tribunal, after setting aside the impugned judgments of the Special Tribunal as well as the Special Court, we refrain ourselves from touching upon the merits of the case.

For the above reasons, the writ petitions are allowed and the impugned judgments of the learned Special Tribunal and the learned Special Court are hereby set aside. The matter is remitted to the Special Tribunal for fresh disposal after giving opportunity to the parties to amend the pleadings suitably and lead evidence in support thereof. Costs shall abide the result of the L.G.O.P.

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T.CH.SURYA RAO, J.

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G.CHANDRAIAH, J.

06th November, 2006.

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